

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JUAN MARTINEZ, on behalf of	)	
himself and all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	4:09CV3079
v.	)	
	)	
CARGILL MEAT SOLUTIONS,	)	
Corporation,	)	PROGRESSION ORDER
	)	
Defendant.	)	
	)	
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DALE HAERLAND, JUAN MUÑOZ,	)	
KARLA VELASQUEZ, and MANUE	)	
CORONA, on behalf of themselves and	)	
all other similarly situated individuals,	)	
	)	
Plaintiffs,	)	8:09CV00247
	)	
	)	
v.	)	
	)	
CARGILL MEAT SOLUTIONS,	)	
Corporation,	)	
	)	
Defendant.	)	

The parties have informed the Court of their agreement to conduct the litigation of this case in separate phases. Under the parties' proposal, the first phase of the litigation ("Phase I") will address the defendant's defenses under 29 U.S.C.A. §§ 203(o) and 259 and the issue of whether the Haferland plaintiffs' state law claims are preempted by federal law or otherwise unavailable under Nebraska law (the "Phase I Defenses"), and the discovery conducted during Phase I will be limited to information applicable to the Phase I Defenses, the summary judgment motion the defendant intends to file pertaining to the Phase I

Defenses, and any the mediation to be conducted following the court's ruling on defendant's anticipated motion for summary judgment.

IT IS ORDERED:

- 1) The Court approves the proposed scheduling plan submitted by the parties, including the plan to progress this case in phases.
- 2) This progression schedule for Phase I of this litigation only is as follows:
  - a. The discovery and deposition deadline is June 23, 2010. Motions to compel discovery must be filed at least 15 days prior to the discovery and deposition deadline.
  - b. On or before June 23, 2010, the plaintiffs will conduct the first day of their requested five-day plant inspection with their expert and videographer. The remainder of the requested plant inspection will take place after completion of Phase I of the litigation.
  - c. The parties have informed the court that they have agreed the scope of the written discovery requests. Subject to their agreement on the scope of written discovery during Phase I of this case, the defendant's responses to the plaintiffs' written discovery requests will be due April 14, 2010.
  - d. Upon completion of written discovery and the Fed. R. Civ. P. 30(b)(6) deposition noticed by the plaintiffs, the parties will meet and confer regarding additional depositions.
  - e. The defendant's motion for summary judgement on the 29 U.S.C.A. §§ 203(o) and 259 and the state law preemption issues is due July 20, 2010. The plaintiffs' joint opposition to the motion is due August 10, 2010. Any reply by the defendant is due August 31, 2010.
  - f. Within twenty-one (21) days after the Court's ruling on the defendant's anticipated summary judgment motion, and prior to any mediation scheduled in accordance with paragraph (g) of this order, the defendant will respond to the plaintiffs' discovery request for payroll records for the opt-in plaintiffs.

g. The parties will schedule and participate in a mediation with a mutually agreed upon private mediator within forty-five (45) days following the Court's ruling on the defendant's motion for summary judgment. The parties will file a joint report concerning the outcome of the mediation within five (5) days following its completion.

Dated this 1<sup>st</sup> Day of April, 2010.

BY THE COURT:

*s/ Cheryl R. Zwart*  
United States Magistrate Judge